## REMARKS

With the foregoing amendment claims 1-5, 14, 16-25, 27, 28 and 30-41 are pending in the application. Claims 1, 14, 16, 27 and 28 are independent. No new matter has been added by the amendments. Applicants respectfully request reconsideration of the present application.

### I. Objection to the Information Disclosure Statement (IDS)

The IDS filed on 6/20/01 and 7/8/04 are objected to because the foreign patents and non-patent literature submitted therewith are allegedly illegible. Applicant submits that legible copies were submitted. Nevertheless, Applicant will resubmit the references. If the Examiner has any difficulty reading a reference, the Examiner is invited to call the undersigned Attorney to resolve the matter.

### II. Double Patenting

Claims 1-4 and 12-15 stand provisionally rejected uner 35 U.S.C. 101 as claiming the same invention as that of claims 1-4 and 12-15 of copending Application Nos. 10/098450, 10/098473 and 10/098482. Applicant submits that claims 1-4 and 12-15 of copending Application Nos. 10/098450, 10/098473 and 10/098482 have been cancelled from those applications. Accordingly, the double patenting rejection is now moot.

### III. Support For the Amendments

Claims 1, 14, 16, 22, 27 and 28 are amended herein. Support for the amendment to claim 1 can be found at, for example: page 2, lines 14-16 ("the personalized audio system restricts the user's ability to determine the selected one or more sound recordings ..."); page 7, lines 15-18 ("a personalized audio channel may be similar to a conventional radio station in that the listener ... [does not] have a means to determine the set of songs specified in the playlist."); page 13, lines 13-16 ("from the user 110's perspective, listening to an audio channel is very similar to listening to a conventional radio station ... [the] user has no way of determining the next song that is to be played."); page 15, lines 1-5 ("device 202 then

determines whether it can pre-announce the sound recording. Pre-announce means to audibly and/or visually inform user 110 of the ... artist of the selected sound recording prior to reproducing the sound recording for user 110."); page 19, lines 21-23 ("listening to an audio channel may be just like listening to a conventional radio station in terms of not knowing what is going to be selected next to be played."); and page 20, line 14 to page 21 line 4 ("user 110 can not directly access any playlist 218 ... that is user 110 should not be allowed to view or otherwise determine the contents of any of the playlists 218 ... playlist 218 contains a list of sound recording identifiers ... Meta-data is preferably associated with each sound recording identifier ... the meta-data includes such information as the name of the artist(s) who created the sound recording ... Meta-data associated with a particular sound recording may be displayed to user 110 in display box 850 when the particular sound recording is played by device 220.").

Support for the amendment to claim 14 can be found at, for example: page 2, lines 16-18 ("the personalized audio system does not provide the user with a way to directly control which sound recording identifiers in the set are selected by the playlist generator."); page 7, lines 15-17 ("[a] personalized audio channel may be similar to a conventional radio station in that the listener does not directly control the contents of the audio channel's playlist ... [f]or example, user 110 does not control what songs get played when."); page 13, line 15 ("user 110 has not direct control over which songs get played."); page 13, lines 21-23 ("user 110 can not specify that a particular set of Hard Rock songs will be played in a particular order at any desired point in time. In other words, user 110 has not direct control over the audio channel's playlist."); and page 19, lines 16-22 ("user 110 may have not direct control over which songs are selected. All that user 110 might directly control is an audio channel's profile, which merely gives user 110 indirect control over which songs are selected in step 902. That is, by having direct control over a profile, user 110 may influence which songs are selected in step 902, but can not directly control which songs will get selected. Further, user 100 has no way to determine which songs will get selected.").

Support for the amendments to claims 16, 27 and 28 can be found at, for example: figures 12 and 13 and the description of those figures at pages 27-30.

Support for the amendment to claim 22 can be found at, for example: figure 18 and the description of figure 18 at page 41 line 7 to page 42, line 10.

## IV. Rejections of Claim 1

Claim 1 stands rejected as being anticipated by Dwek (US 6,248,946) and stands rejected as being obvious over Dwek in view of Ward (US 6,526,411). Applicant respectfully traverses.

Dwek does not anticipate claim 1 because Dwek does not disclose all of the features of claim 1. Claim 1, as amended, requires that "for each sound recording identifier included in the playlist, the personalized audio system does not provide the user with information about the artist(s) who created the sound recording identified by the identifier until (a) such time as the sound recording is played by the audio system or (b) a point in time immediately prior to the playing of the sound recording by the audio system." Dwek does not disclose this feature. Accordingly, Dwek does not anticipate claim 1.

Dwek discloses the opposite of the above mentioned feature. Dwek describes an Internet radio service known as RADIO SONICNET (see col. 2, ll. 12-40). According to Dwek, "RADIO SONICNET allows a listener to select and rank musical artists ... to create a customized radio station. RADIO SONICNET then provides the listener with a list of musical artists whose music will be played on the [customized] radio station." Col. 2, ll. 17-19 (emphasis added). Providing the listener with a list of musical artists whose music will be played on the [customized] radio station is the direct opposite of the claimed feature of "not provid[ing] the user with information about the artist(s) who created the sound recording identified by the identifier until (a) such time as the sound recording is played or (b) a point in time immediately prior to the playing of the sound recording by the audio system." Accordingly, Dwek does not disclose all of the features of claim 1. Hence, Dwek does not anticipate claim 1 and the rejection of claim 1 as being anticipated by Dwek should be withdrawn.

Ward does not make up for the deficient teachings of Dwek as the Office Action acknowledges. On page 12 of the Office Action, the Office Action states, "Ward does not explicitly disclose that the personalized audio system does not provide the user with a way to

determine the selected one or more sound recording identifiers ...." Applicant agrees with the Office Action. Because Ward does not make up for the deficient teachings of Dwek, neither Ward nor Dwek, considered alone or in combination, teach or suggest all of the features of claim 1. Therefore, the rejection of claim 1 over Dwek in view of Ward should be withdrawn.

## V. Rejections of Claim 2-4

Claims 2-4 depend from claim 1. Accordingly, claims 2-4 are patentable over the art of record for at least the same reasons given above with respect to claim 1. Thus, the rejections of claim 2-4 should be withdrawn.

## VI. Rejection of Claim 5

Claim 5 stands rejected as being unpatentable over Dwek in view of Ward and Cook (US 6,248,946). Applicant respectfully traverses.

First, claim 5 depends from claim 1 and, therefore, is patentable for at least the same reasons give above with respect to claim 1. And second, neither Dwek, Ward nor Cook, considered alone or in combination, teach or suggest all of the features introduced by claim 5. For example, at the least, neither Dwek, Ward nor Cook, considered alone or in combination, teach or suggest "encrypt[ing] the playlist," as is recited in claim 5. The Office Action acknowledges that this feature is not taught by either Dwek or Ward. However, The Office Action contends that Cook discloses this feature. This contention is erroneous. Cook does not disclose encrypting a playlist.

In support of its contention that Cook discloses encrypting a playlist, the Office Action cites to col. 3, lines 7-8 of Cook. This portion of Cook states, "The digital content of entertainment programming is embodied in encrypted, digital files stored in MPEG format." This portion of Cook merely discloses that "digital content" (e.g., digital video or digital sounds recordings or other like digital content) is encrypted. The fact that Cook states that the digital content is stored in MPEG format indicates that the digital content relates to a motion picture or sound recording because the MPEG format is a format for digitally storing movies, sound recordings and the like (in fact, MPEG stands for "Motion Picture Experts

Group"). Accordingly, the cited portion of Cook does not disclose that a playlist is encrypted because a playlist is not "digital content." Rather, a playlist is a file or the like that contains, among other things, a set of digital content identifiers (e.g., sound recording identifiers), each of which identifies digital content (e.g., a digital video or digital sound recording).

The Office Action also cites to col. 5, lines 3-15 to support its contention that Cook discloses encrypting the playlist. For convenience, this portion of Cook is reproduced below.

> Schedules can be executed by players (97). A player (97) reads (98) schedules (32) selected for play and examines them (124) to determine that all tracks and ads needed for play are present in the end user digital library (120) on the consumer's personal computer (86) along with the any necessary encryption codes in the header information for each track and ad. That is, the player checks that none of the digital information needed for play had been inadvertently deleted from the consumers' personal computer since the last time the player was invoked. The player then reads (100), decrypts (102), and plays (104), through, for example, audio speakers (122), in sequence, events identified in a selected schedule (32).

This portion of Cooke merely discloses a player that "decrypts (102), and plays 104 ... events identified in a schedule." It is the "events" that need decrypting, not the schedule itself. Accordingly, it is only the events that are encrypted, and not the schedule. Thus, in no way does this portion of Cook disclose that the schedule itself is encrypted. In fact, there is not suggestion anywhere in Cook to encrypt the schedule. It is only the "events" (i.e., digital content) that is encrypted in the system defined in Cook. Accordingly, Cook simply does not disclose encrypting a playlist.

Because neither Dwek, Ward nor Cook, considered alone or in combination, teach or suggest all of the features of claim 5, the rejection of claim 5 should be withdrawn.

## VII. Rejection of Claim 14

Claim 14 stands rejected as being anticipated by Cook. Applicant respectfully traverses.

Cook does not anticipate claim 14 because Cook does not disclose all of the features of claim 14. Claim 14, as amended, requires that "the audio channel profile information does not specify that any one or more particular songs should be selected." Cook does not disclose this feature. Rather, Cooke discloses the opposite of this feature. That is, Cook discloses a system that enables the user to select exactly which songs (or "tracks") are included in a schedule (i.e., playlist). For example, Cook states, "[a] scheduler (130) allows users to select (110) from the available tracks those to be included, and their sequence of inclusion, in a schedule" (see col. 5, lines 29-31). This teaching of Cook is the exact opposite of what the present invention is trying to accomplish. The present invention is aimed at creating audio channels that are like conventional radio stations in that the user has no direct control over what gets played, but rather has only indirect control by specifying the genres of music that the user likes. Cook, on the other hand, discloses a system wherein the user has direct control over what songs get played because the user gets to pick exactly which songs are included in the schedule. Accordingly, Cook does not anticipate claim 14.

## VIII. Rejection of Claim 16

Claim 16 stands rejected as being anticipated by Cook and stands rejected as being unpatentable over Cook in view of Ward. Applicant respectfully traverses.

Cook does not anticipate claim 16 because Cook does not disclose all of the features of claim 16. Claim 16, as amended, requires that "the steps of selecting the sound recording and determining whether the selected sound recording is stored in the sound recording library occur after receiving the input that indicates the user desires to listen to the selected personalized audio channel." Cook does not disclose this feature. Rather, Cooke discloses the opposite of this feature. That is, Cook discloses a system that selects a sound recording and determines whether the selected sound recording is stored in the sound recording library before receiving the input from the user. For example, Cook states,

> means for comparing the schedule of digital content with an end user's digital library, means for identifying digital content listed on the schedule but missing from the end user's digital library, and means for communicating with said master digital library to obtain the digital content missing from the end user's digital library can be implemented as shown in FIG. 5 through a software agent called a distributor (78) that operates every time the consumer logs onto the website (48) using a personal computer (86). ....
>
> The distributor can update tracks and ads (81) by reading (88) from an end user digital library (120) the identifying information for the tracks and ads required to fulfill the installed schedules (32) to determine whether the required tracks and sectors are installed on the consumer's personal computer (86). If the required tracks are not installed on the consumer's personal computer (86), the distributor retrieves (90) required tracks and ads from the master digital library (2) and delivers them (92) via the Internet to the end user digital library (120) on the consumer's personal computer (86). The distributor then updates (94) the consumer data (44) so that the current listing in the consumer data (44) of tracks stored on the consumer's personal computer (86) is accurate. **At play time, therefore, all tracks and ads needed to execute a schedule, as well as the updated form of the schedule itself, are typically available on the consumer's personal computer (86),** and an accurate list of the tracks stored on the consumer's personal computer (86) is included within the centrally-stored consumer data (44).

Cook, col. 4, lines 28-65 (emphasis added). It is clear from the above portion of Cook, that the distributor 78 determines which tracks (i.e., songs) are missing from the library and downloads those tracks to the library before the listener makes a request to listen to a schedule so that, **at play time** (i.e., at the time the user makes the request to listen to the schedule), all of the tracks will be in the local library. This method of operation disclosed in Cook is the exact opposite of what is claimed. According to claim 16, the determination as to whether a song is in the library does not occur until after the user requests to listen to a personalized channel and after the song is selected to be played. That is, in the system claimed in claim 16, the user first requests to listen to a channel, then a song is selected that matches the profile of the channel, and then a determination is made as to whether that song is in the local library; if it is not in the library, then, at that time, it is downloaded to the

library. In short, Cook discloses the opposite of what is claimed. Accordingly, Cook does not anticipate claim 16.

Ward does not make up for the deficient teachings of Cook as the Office Action acknowledges. On page 12 of the Office Action, the Office Action states, "Ward does not explicitly teach retrieving the sound recording from the library if it is determined that the sound recording is in the library and retrieving the sound recording from the server otherwise." Applicant agrees with the Office Action. Because Ward does not make up for the deficient teachings of Cook, neither Ward nor Cook, considered alone or in combination, teach or suggest all of the features of claim 16. Therefore, the rejection of claim 16 over Cook in view of Ward should be withdrawn.

## IX. Rejections of Claim 17-21

Claims 17-21 depend from claim 16. Accordingly, claims 17-21 are patentable over the art of record for at least the same reasons given above with respect to claim 16. Thus, the rejections of claim 17-21 should be withdrawn.

## X. Rejection of Claim 22

Claim 22 stands rejected as being anticipated by Cook and as being unpatentable over Cook in view of Ward. Applicant respectfully traverses.

First, claim 22 depends from claim 16 and, therefore, is patentable for at least the same reasons give above with respect to claim 16. And second, neither Cook nor Ward, considered alone or in combination, teach or suggest all of the features introduced by claim 22. For example, at the least, neither Cook nor Ward, considered alone or in combination, teach or suggest a library catalogue that "identifies whether or not a sound recording included in the library is owned by a user of the personalized audio system, wherein at least one of the sound recordings included in the library is not owned by the user and at least one of the sounds recordings included in the library is owned by the user," as is recited in claim 22. Neither Cook nor Ward disclose this feature.

Cook discloses an end user digital library (120). However, nowhere does Cook teach or suggest that at least one of the sound recordings included in the library is not owned by

the user and at least one of the sounds recordings included in the library is owned by the user, as is required by claim 22. Similarly, Ward discloses a sound recording library, but also does not teach or suggest that at least one of the sound recordings included in the library is not owned by the user and at least one of the sounds recordings included in the library is owned by the user. Because neither Ward nor Cook, considered alone or in combination, teach or suggest all of the features of Claim 22, the rejection of Claim 22 should be withdrawn.

## XI. Rejections of Claim 23-25

Claims 23-25 depend from claim 16. Accordingly, claims 23-25 are patentable over the art of record for at least the same reasons given above with respect to claim 16. Thus, the rejections of claim 23-25 should be withdrawn.

## XII. Rejection of Claims 27 and 28

Claims 27-28 stand rejected as being anticipated by Cook and as being unpatentable over Cook in view of Ward. Applicant respectfully traverses. Applicant submits that the above remarks for claim 16 apply equally to claims 27 and 28, because, like claim 16, claims 17 and 28 require that the functions of selecting the sound recording and determining whether the selected sound recording is stored in the sound recording library occur after receiving from the user input indicating the user desires to listen to a selected personalized audio channel.

## XIII. New Claims

New claims 30-41 are added. Each of claims 30-41 depend from one of the above mentioned independent claims. Accordingly, claims 30-41 are patentable over the art of record for the corresponding reasons given above. Support for new claim 30 can be found at, for example, page 22, line 19 to page 23, line 11 and figure 3. Support for new claim 31 can be found at, for example, page 14, lines 18-20. And support for new claims 32-41 can be found at, for example, figure 8 and the description thereof at page 16, line 13.

## CONCLUSION

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections, and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance.

If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.


| **RESPECTFULLY SUBMITTED,** | | | | | |
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